

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	Case No. 2:19-CV-6219
Plaintiff,)	
)	
v.)	
)	
FRED M. SILVERMAN and)	
SHARI B. FLOMENDORF,)	
)	
Defendants.)	
_____)	

COMPLAINT

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment certain unpaid federal tax liabilities owed by Fred M. Silverman and Shari B. Flomendorf. For its complaint, the United States alleges as follows:

JURISDICTION AND PARTIES

1. The district court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1340, and 1345, and 26 U.S.C. § 7402.
2. The defendant Fred M. Silverman resides in Suffolk County, New York, within the jurisdiction of this Court.
3. The defendant Shari B. Flomendorf resides in Suffolk County, New York, within the jurisdiction of this Court.

COUNT ONE
(Claim Against Fred M. Silverman to Reduce
Certain Income Tax Liabilities to Judgment)

4. A delegate of the Secretary of the Treasury made assessments against Fred M. Silverman for income taxes and penalties for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of as of November 4, 2019, including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651 or penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, after applying any abatements, payments, and credits, as follows:

Tax Period Ending	Assessment Date	Assessment Type	Amount Assessed	Balance Due
12/31/2005	9/6/2010	Tax (IRC § 6020(b))	\$13,879.00	\$36,775.79
	9/6/2010	Failure to Pre-Pay	\$556.72	
	9/6/2010	Late Filing Penalty	\$3,122.77	
	9/6/2010	Late Payment Penalty	\$3,469.75	
12/31/2006	11/9/2009	Tax (IRC § 6020(b))	\$18,574.00	\$46,458.90
	11/9/2009	Failure to Pre-Pay	\$878.93	
	11/9/2009	Late Filing Penalty	\$4,179.15	
	11/9/2009	Late Payment Penalty	\$2,878.97	
	7/19/2010	Late Payment Penalty	\$1,485.92	
	7/18/2011	Late Payment Penalty	\$278.61	
12/31/2007	4/5/2010	Tax (IRC § 6020(b))	\$22,855.00	\$53,344.95
	4/5/2010	Failure to Pre-Pay	\$1,040.17	
	4/5/2010	Late Filing Penalty	\$5,142.37	
	4/5/2010	Late Payment Penalty	\$2,742.60	
	7/18/2011	Late Payment Penalty	\$2,971.15	
			Total:	\$136,579.64

5. Notice of the liabilities described in paragraph 4 was given to, and payment demanded from, Fred M. Silverman.

6. Despite proper notice and demand, Fred M. Silverman failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and

credits, he remains liable to the United States in the amount of \$136,579.64, plus statutory additions accruing from and after November 4, 2019.

COUNT TWO
(Claim Against Fred M. Silverman and Shari B. Flomendorf to Reduce
Certain Joint Income Tax Liabilities to Judgment)

7. A delegate of the Secretary of the Treasury made joint assessments against Fred M. Silverman and Shari B. Flomendorf for income taxes and penalties for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of as of November 4, 2019, including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651 or penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, after applying any abatements, payments, and credits, as follows:

Tax Period Ending	Assessment Date	Assessment Type	Amount Assessed	Balance Due
12/31/2008	2/23/2015	Tax	\$24,654.00	\$53,337.12
	2/23/2015	Failure to Pre-Pay	\$792.00	
	2/23/2015	Late Filing Penalty	\$5,547.15	
	2/23/2015	Late Payment Penalty	\$6,610.55	
12/31/2009	3/2/2015	Tax	\$24,356.00	\$49,041.72
	3/2/2015	Failure to Pre-Pay	\$564.00	
	3/2/2015	Late Filing Penalty	\$5,300.10	
	3/2/2015	Late Payment Penalty	\$5,889.00	
12/31/2010	3/2/2015	Tax	\$30,621.00	\$59,979.43
	3/2/2015	Failure to Pre-Pay	\$587.00	
	3/2/2015	Late Filing Penalty	\$6,709.72	
	3/2/2015	Late Payment Penalty	\$7,007.93	
	11/14/2016	Late Payment Penalty	\$447.32	
12/31/2011	12/22/2014	Tax	\$18,836.00	\$32,470.78
	12/22/2014	Late Filing Penalty	\$3,783.15	
	12/22/2014	Late Payment Penalty	\$2,774.31	
	11/14/2016	Late Payment Penalty	\$1,429.19	
12/31/2012	12/22/2014	Tax	\$16,124.00	\$27,079.99
	12/22/2014	Failure to Pre-Pay	\$111.74	
	12/22/2014	Late Filing Penalty	\$3,235.05	
	12/22/2014	Late Payment Penalty	\$1,509.69	

	11/14/2016	Late Payment Penalty	\$2,084.81	
12/31/2013	12/22/2014	Tax	\$24,140.00	\$39,453.68
	12/22/2014	Failure to Pre-Pay	\$321.70	
	12/22/2014	Late Filing Penalty	\$2,127.60	
	12/22/2014	Late Payment Penalty	\$1,063.80	
	11/14/2016	Late Payment Penalty	\$4,846.20	
			Total:	\$261,362.72

8. Notice of the liabilities described in paragraph 7 was given to, and payment demanded from, Fred M. Silverman and Shari B. Flomendorf.

9. Despite proper notice and demand, Fred M. Silverman and Shari B. Flomendorf failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, they remain liable, jointly and severally, to the United States in the amount of \$261,362.72, plus statutory additions accruing from and after November 4, 2019.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Fred M. Silverman for income tax liabilities for the periods ending December 31, 2005, December 31, 2006, and December 31, 2007, in the amount of \$136,579.64, plus statutory additions and interest accruing from and after November 4, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c);

B. Judgment against the defendant Fred M. Silverman and the defendant Shari B. Flomendorf, jointly and severally, for income tax liabilities for the periods ending December 31, 2008, December 31, 2009, December 31, 2010, December 31, 2011, December 31, 2012, and December 31, 2013, in the amount of \$261,362.72, plus statutory additions and interest accruing

from and after November 4, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c); and,

C. The United States of America shall recover its costs, and be awarded such other and further relief as the Court determines is just and proper.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

/s/ Jordan A. Konig

JORDAN A. KONIG
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044
202-305-7917 (v)
202-514-5238 (f)
Jordan.A.Konig@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jordan A. Konig, U.S. Department of Justice, Tax Division
P.O. Box 55, Ben Franklin Station
Washington, DC 20044 (202) 305-7917

DEFENDANTS

Fred M. Silverman and Shari B. Flomendorf

County of Residence of First Listed Defendant Suffolk
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☒ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<div>PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice</div> <div>PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability</div>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation - Transfer

☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 U.S.C. 7402
Brief description of cause:
Suit to reduce tax assessments to judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
397,942.36

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):
JUDGE _____ DOCKET NUMBER _____

DATE
11/04/2019

SIGNATURE OF ATTORNEY OF RECORD
/s/ Jordan A. Konig

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, Jordan A. Konig, counsel for United States of America, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☐
☐
☐

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

n/a

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☒ Yes ☐ No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
- c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: .

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☐ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒

Yes

☐

No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐

Yes

(If yes, please explain

☒

No

I certify the accuracy of all information provided above.

Signature: JORDAN KONIG

Digitally signed by JORDAN KONIG
DN: c=US, o=U.S. Government, ou=Dept of
Justice, ou=TAX, cn=JORDAN KONIG,
0.9.2342.19200300.100.1.1=15001003098357
Date: 2019.11.04 18:31:31 -05'00'

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America

Plaintiff(s)

V.

Fred M. Silverman and
Shari B. Flomendorf

Defendant(s)

Civil Action No. 2:19-CV-6219

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Fred M. Silverman
169 Cranberry Court
Mellville, New York 11747

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jordan A. Konig

Jordan A. Konig
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55, Ben Franklin Station
Washington, DC 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-CV-6219

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-CV-6219

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: